

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**PARKERSBURG DIVISION**

SAMMY L. DAVIS, SR.,

Petitioner,

v.

CIVIL ACTION NO. 6:07-cv-00127

DAVID BALLARD,

Respondent.

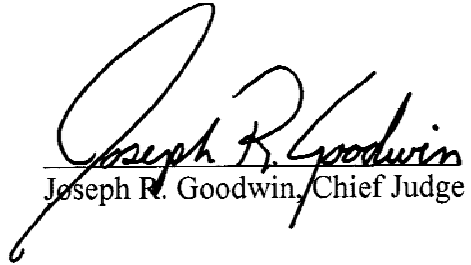
**ORDER**

Pending before the court is the respondent's Motion for Summary Judgment [Docket 16]. This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for proposed findings of fact and recommendations for disposition pursuant to 28 U.S.C. § 636(b)(1). On February 26, 2008, the Magistrate Judge submitted proposed findings of fact and recommended that this court grant the respondent's motion for summary judgment [Docket 23]. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

The failure to object to a magistrate judge's report may be deemed a waiver on appeal of the substance of the report and the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Campbell v. United States D. Ct. N.D. Cal.*, 501 F.2d 196, 206 (9th Cir. 1974). The court has reviewed the Magistrate Judge's findings of fact and recommendations and finds no clear error on the face of the record. Therefore, the court **ADOPTS** the findings and recommendation of the Magistrate Judge and orders judgment consistent with the findings and recommendations.

The court **GRANTS** the respondent's Motion for Summary Judgment [Docket 16], **DISMISSES** the petitioner's 28 U.S.C. § 2254 petition, and **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 19, 2008



Joseph R. Goodwin, Chief Judge